

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting appellant's oil and gas lease offer for parcel WY-240 in the January 1983 simultaneous drawing.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases:
Applications: Attorneys-in-Fact or Agents
In simultaneous oil and gas lease situations, the failure of a first-drawn applicant to file an offer in accordance with 43 CFR 3112.4-1 necessitates rejection of the offer. Where the offer has been signed by one who has been designated as an attorney-in-fact for the offeror, and it is not accompanied by a power of attorney or a reference to a qualifications file where such authorization has been filed, the offer must be rejected.
2. Notice: Generally

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Thomas M. Bloch, pro se.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

Appellant Thomas M. Bloch (Bloch) appeals from a decision of the Wyoming State Office of the Bureau of Land Management (BLM), dated May 9, 1983, rejecting Bloch's oil and gas lease offer W-84175 because the offer documents and stipulations were signed by an attorney-in-fact, rather than by the applicant, and the documents, when returned to BLM, did not have a copy of the power of attorney attached to the offer documents or refer to a serial number under which the power of attorney was filed.

Appellant was the successful first drawee for parcel WY-240 in the January 1983 simultaneous oil and gas filings. On April 5, 1983, notice of

his success was sent to appellant, together with five copies of the lease offer and required stipulations. The notice stated that the documents must be signed by the appellant or his attorney-in-fact and returned to the Wyoming office of BLM within 30 days from the date of receipt. The notice was received by the appellant on April 8, 1983. On April 11, 1983, the Wyoming office of BLM received the executed Forms 3110-2 and stipulations, and payment for the first year's lease rental. The documents were signed by Stewart F. Bloch, as attorney-in-fact for appellant. No other documents were enclosed.

On May 9, 1983, the Wyoming State Office, BLM, issued a decision rejecting appellant's lease offer. The reason for the rejection given by BLM was the failure to file a copy of the power of attorney authorizing appellant's attorney-in-fact to execute the lease offer and stipulation documents or making reference to the serial number under which the power of attorney had previously been filed.

On May 16, 1983, appellant filed his notice of appeal and statement of reasons. The reason for the appeal was "that Stewart F. Bloch, my attorney-in-fact, signed the lease offer but failed to enclose a copy of his Power of Attorney." A copy of the power of attorney was enclosed with the notice. Appellant further noted that the April 5, 1983, letter which notified him that he was the successful drawee, specifically stated that the lease offer was to be personally signed by him or his attorney-in-fact but gave no indication that it was necessary for him to file a copy of the power of attorney or make reference to a serial number.

[1] The pertinent part of 43 CFR 3112.4-1(b) provides: 1/

§ 3112.4-1 The lease offer and payment of first year's rental.

(b) * * * Any attorney-in-fact signing the lease offer or paying the first year's rental on behalf of the prospective lessee shall file, together with the offer and/or rental, a copy of his/her power of attorney or reference to the serial number under which such authorization is filed over the personal handwritten signature of the prospective lessee in ink.

The regulation clearly states the duties of an attorney-in-fact who completes the lease offer under subpart 3112. Failure to file an offer in accordance with section 3112.4-1 necessitates rejection of the first-qualified applicant's application. 43 CFR 3112.6-1(d). Enserch Exploration, Inc., 70 IBLA 25 (1983).

[2] Appellant's contention that the offer should be accepted because the notice sent did not disclose the fact that a copy of the power of attorney was necessary is without merit. Appellant, in dealing with the Government, is presumed to have knowledge of relevant statutes and duly

1/ The regulations covering oil and gas leasing on Federal lands were revised, effective Aug. 22, 1983. 48 FR 33678 (July 22, 1983). All citations used in this decision refer to those regulations in effect at the time of the determination by the Wyoming State Office.

promulgated regulations. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); 44 U.S.C. §§ 1507, 1510 (1976). Such regulations have the force and effect of law and are binding on the Department. Enserch Exploration, Inc., supra; Walter Adomkus, 67 IBLA 177 (1982); Bernard P. Gencorelli, 43 IBLA 7 (1979). Therefore, an express regulatory directive cannot be disregarded on the basis that notice of the mandatory requirement has not been conveyed to the applicant. 43 CFR 3112.6(d) is clear notice to the first-qualified applicant of the necessity to comply with section 3112.4-1. In any event, the notice which appellant received directly adverted to 43 CFR 3112.4-1.

In a simultaneous filing situation, if the oil and gas lease offer is defective, the defect is not curable. The rights of a third party intervene to preclude the ability to take curative action when the second drawee is advanced to the position of the first-qualified applicant. See Altex Oil Corp., 61 IBLA 240 (1982); Robert E. Bergman, 53 IBLA 122 (1981).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Wyoming State Office, Bureau of Land Management, appealed from is affirmed.

R. W. Mullen
Administrative Judge

We concur:

Franklin D. Arness
Administrative Judge
Alternate Member

James L. Burski
Administrative Judge

